



May 22, 2008

Ms. LaDonna Castanuela  
Chief Clerk  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Building F  
Austin, Texas 78753

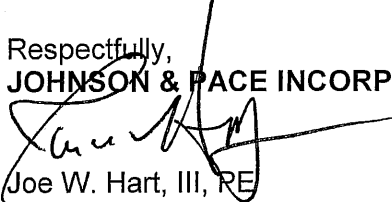
**Re: Motion to Overturn the Executive Director's Decision  
GSHS Customer Service Building 1, Ltd.  
Water Use Permit No. 12225**

Dear Ms. Castanuela:

Please accept the attached motion to overturn in this case for filing Permit No. 12225.

If you have any questions, please feel free to contact me at 903-753-0663.

Respectfully,  
**JOHNSON & PACE INCORPORATED**

  
Joe W. Hart, III, PE  
Principal

CC: Craig Ayers, 700 E Marshall Ave, Longview, TX 75601  
Robin Smith, TCEQ, 12100 Park 35 Circle, Building F, Austin, Texas 78753.  
Ron Ellis, TCEQ, MC 160, 12100 Park 35 Circle, Building F, Austin, Texas 78753

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 MAY 23 PM 2:27  
CHIEF CLERKS OFFICE



May 22, 2008

Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Building F  
Austin, Texas 78753

**Re: Motion to Overturn the Executive Director's Decision  
GSHS Customer Service Building 1, Ltd.  
Water Use Permit No. 12225**

To the Commissioners of the TCEQ:

Please consider this letter as our request to file a Motion to Overturn the Executive Director's Decision in accordance with 30 TAC 50.139 on Water Use Permit No. 12225. The permit as signed and issued contains the incorrect Page 3. The permit was signed on April 22, and mailed to us on April 30. It references the Brazos River Basin, and this project is in the Sabine River Basin, and it also restricts the permit to one year. We request that Page 3 be corrected and a revised permit be issued. The Executive Director's staff has indicated that they agree that this was a mistake and staff has the correct Page 3 with which to correct the permit. Copies of the incorrect and correct permits are attached.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Craig Ayers".

Craig Ayers, CHFM  
Director of Plant Operations/Construction

CC: Robin Smith, TCEQ, 12100 Park 35 Circle, Building F, Austin, Texas 78753  
Ron Ellis, TCEQ, MC 160, 12100 Park 35 Circle, Building F, Austin, Texas 78753

TEXAS  
COMMISSION  
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QUALITY

2008 MAY 23 PM 2:27  
CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

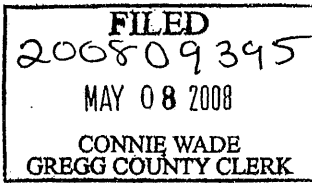


THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a  
Texas Commission on Environmental Quality document,  
which is filed in the permanent records of the Commission.  
Given under my hand and the seal of office on

*LaDonna Castanuela* APR 30 2008

LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality



WATER USE PERMIT

PERMIT NO. 12225

TYPE \$11.121

Permittee: GSHS Customer Service  
Building 1, Ltd.

Address: 700 East Marshall Ave.  
Longview, Texas 75601

Filed: September 7, 2007

Granted: APR 22 2008

Purpose: Recreation

County: Gregg

Watercourse: Unnamed Tributary of  
Grace Creek, Tributary  
of the Sabine River

Watershed: Sabine River Basin

WHEREAS, applicant seeks authorization to construct and maintain a dam and reservoir with a capacity of 15.5 acre-feet of water and a surface area of 2.69 acres on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin for in-place recreation purposes in Gregg County; and

WHEREAS, the proposed reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the proposed dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude; and

WHEREAS, ownership of the inundated land is evidenced by a Deed, dated October 17, 2006, and filed and recorded, as document number 200624261, in the Gregg County Clerk's Office; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; and

WHEREAS, no requests for a contested case hearing were received for this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality in issuing this water use permit;

4992 NOW, THEREFORE, this Water Use Permit No. 12225 is issued to GSHS Customer Service Building 1, Ltd. subject to the following terms and conditions:

1. IMPOUNDMENT

Permittee is authorized to construct and maintain a dam and reservoir on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin with a normal maximum capacity of 15.5 acre-feet of water and a surface area of 2.69 acres. The reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude.

2. USE

Permittee is authorized to use the impounded water for in-place recreation purposes with no right of diversion.

3. TIME PRIORITY

The time priority for this right is September 7, 2007.

4. TIME LIMITATIONS

A. Construction of the proposed dam and reservoir shall be in accordance with plans approved by the Executive Director. Construction of the dam without final approval of the construction plans is a violation of this authorization.

B. Construction shall begin within one year of issuance of this permit and be completed within two years of the issuance of this permit, unless Permittee applies for and is subsequently granted an extension of time before the expiration of these time limitations.

C. Failure to commence the proposed dam and reservoir within the period stated above shall subject all rights to this permit to forfeiture, subject to notice and hearing. After beginning construction, failure to timely construct the proposed dam and reservoir stated above shall subject this permit to cancellation in whole or in part, subject to notice and hearing.

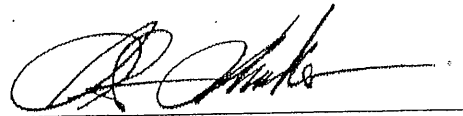
- D. This permit shall expire and become null and void one year from the date of issuance with no further Commission action. Permittee also waives the right to notice and hearing on cancellation of this water right.
- E. This permit is junior in priority to all existing water rights in the Brazos River Basin.
- F. No diversion shall be made when such water is required to satisfy domestic and livestock demands downstream, or when necessary to satisfy senior and superior water rights and instream needs.
- G. The issuance of this permit does not grant to Permittee the right to use private or public property for diversion of water authorized by this permit. This includes property belonging to but not limited to any individual, partnership, corporation or public entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of Permittee to acquire property rights as may be necessary to make any diversion authorized by this permit.

This temporary permit does not vest in its holder a permanent right and shall in no event be construed as a commitment of the Commission to approve or disapprove any other application or request by Permittee.

Permittee agrees to be bound by the terms, conditions, and provisions contained herein, and such agreement is a condition precedent to the granting of this permit.

All other matters requested in the application which are not specifically granted by this temporary permit are denied.

This permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to its right of continuing supervision.

  
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For the Commission

DATE ISSUED: **APR 22 2008**

## WATER USE PERMIT

PERMIT NO. 12225

TYPE §11.121

Permittee: GSHS Customer Service  
Building 1, Ltd.

Address: 700 East Marshall Ave.  
Longview, Texas 75601

Filed: September 7, 2007

Granted:

Purpose: Recreation

County: Gregg

Watercourse: Unnamed Tributary of  
Grace Creek, Tributary  
of the Sabine River

Watershed: Sabine River Basin

WHEREAS, applicant seeks authorization to construct and maintain a dam and reservoir with a capacity of 15.5 acre-feet of water and a surface area of 2.69 acres on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin for in-place recreation purposes in Gregg County; and

WHEREAS, the proposed reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the proposed dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude; and

WHEREAS, ownership of the inundated land is evidenced by a Deed, dated October 17, 2006, and filed and recorded, as document number 200624261, in the Gregg County Clerk's Office; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; and

WHEREAS, no requests for a contested case hearing were received for this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality in issuing this water use permit;

NOW, THEREFORE, this Water Use Permit No. 12225 is issued to GSHS Customer Service Building 1, Ltd. subject to the following terms and conditions:

1. IMPOUNDMENT

Permittee is authorized to construct and maintain a dam and reservoir on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin with a normal maximum capacity of 15.5 acre-feet of water and a surface area of 2.69 acres. The reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude

2. USE

Permittee is authorized to use the impounded water for in-place recreational purposes with no right of diversion.

3. TIME PRIORITY

\*

The time priority for this right is September 7, 2007.

4. TIME LIMITATIONS

A. Construction of the proposed dam and reservoir shall be in accordance with plans approved by the Executive Director. Construction of the dam without final approval of the construction plans is a violation of this authorization.

B. Construction shall begin within one year of issuance of this permit and be completed within two years of the issuance of this permit, unless Permittee applies for and is subsequently granted an extension of time before the expiration of these time limitations.

C. Failure to commence the proposed dam and reservoir within the period stated above shall subject all rights to this permit to forfeiture, subject to notice and hearing. After beginning construction, failure to timely construct the proposed dam and reservoir stated above shall subject this permit to cancellation in whole or in part, subject to notice and hearing.

5. SPECIAL CONDITIONS

- A. In order to protect the water quality of the reservoir and the water bodies downstream of the reservoir, the Permittee shall maintain a riparian buffer zone of permanent vegetation around the perimeter of the reservoir averaging 50 feet in width with the exception of reasonable access areas. The buffer zone shall be graded to have a slope no greater than 5% and planted with native vegetation at a density to ensure complete coverage at maturity.
- B. Permittee shall follow and implement the proposed mitigation plan when approved by the U.S. Army Corps of Engineers (USACE) and TCEQ through Section 401/404 of the Clean Water Act for Project Number 200600541.
- C. Permittee shall provide and maintain suitable outlets in good working condition in the reservoir to pass all inflows of state water that the permittee is not entitled to impound.

This water use permit is issued subject to all superior and senior water rights in the Sabine River Basin.

Permittee agrees to be bound by the terms, conditions, and provisions contained herein and such agreement is a condition precedent to the granting of this permit.

All other matters requested in the application which are not specifically granted by this water use permit are denied.

This water use permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right continuing supervision of State resources exercised by the Commission.

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For the Commission

Date Issued: